HON'BLE SRI JUSTICE BILAL NAZKI
AND
HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.6380 of 2007

Date: 23-04-2007.

Between :

M/s.Immadisetty Anandham Trading Co., Secunderabad, rep. by its Proprietor.

.....Petitioner

And

The Commercial Tax Officer, Market Street Circle, Secunderabad Division, Hyderabad.

.....Respondent.

HON'BLE SRI JUSTICE BILAL NAZKI
AND
HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.6380 of 2007

ORDER : (Per Hon'ble Sri Justice Bilal Nazki)

Heard learned counsel for the parties.

The grievance of the petitioner is that tax and penalty were imposed by the same order without affording an opportunity to the petitioner to oppose imposition of penalty. The learned counsel for petitioner submits that against fixation of liability to pay tax, the petitioner has already filed an appeal and the same is pending. He submits that the imposition of penalty by the same order which imposed the tax, was illegal as has been held by this Court in **Delta Lubricants, Vijayawada v. The Deputy Commercial Tax Officer, No.1, Suryaraopet Circle, Vijayawada**[1]. Following the same judgment, we set aside the order to the extent it imposed penalty. The writ petition, to that extent, is allowed. However, the respondent is at liberty to proceed against the petitioner by following due process of law, in case he intends to

impose any penalty. The original impugned orders be returned to the petitioner by retaining the copy.

BILAL NAZKI, J

23rd April 2007

NOOTY RAMAMOHANA RAO, J

ajr

[1] 43 APSTJ 27